

INDIANA DEPARTMENT OF STATE REVENUE

Revenue Ruling #2001-08ST

August 24, 2001

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax – Prepaid Telephone Services

Authority: IC 6-2.5-4-6, IC 6-2.5-4-13, IC 6-2.5-2-1

The taxpayer requests the Department to rule whether or not the taxpayer is required to collect sales tax on prepaid telephone services.

STATEMENT OF FACTS

The taxpayer sells prepaid telephone services. The taxpayer sells both prepaid local telephone service and prepaid long-distance service. The taxpayer purchases these services from another telecommunication provider.

The taxpayer bills its customers for local service on a flat rate, prepaid basis and does not collect sales tax on the billing. The taxpayer, however, when invoiced by the telecommunication provider, pays sales tax to the telecommunication provider.

The taxpayer sells long-distance service via prepaid telephone calling cards. The taxpayer does not collect sales tax on the sale of the calling cards, however, does pay the applicable sales tax to the telecommunication provider.

DISCUSSION

IC 6-2.5-4-6 provides that intrastate telecommunication services, including local and intrastate long-distance telephone services, are subject to sales tax. The statute states that a person is a retail merchant making a retail transaction when the person provides intrastate telecommunication service. Included in this definition of a retail merchant is a telecommunication provider that purchases telecommunication services from another telecommunication provider for the purpose of "reselling" the services to their customers.

Further, IC 6-2.5-4-13 states:

A person is a retail merchant making a retail transaction when a person sells:

1. a prepaid telephone calling card at retail;
2. a prepaid telephone authorization number at retail;
3. the reauthorization of a prepaid telephone calling card; or
4. the reauthorization of a prepaid telephone authorization number.

Pursuant to IC 6-2.5-2-1, retail transactions made in Indiana are subject to sales tax with the retail merchant required to collect sales tax on same.

It is clear then, the taxpayer is required to collect sales tax from its customers for prepaid local telephone service and prepaid long-distance telephone service, but, is not required to pay sales tax to its telecommunication providers.

RULING

The Department rules that the taxpayer is required to collect sales tax from its customers when it sells prepaid local telephone service and prepaid long-distance telephone service via a prepaid telephone calling card, but, is not required to pay sales tax to its telecommunication providers.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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